

Court of Appeals, State of Michigan

ORDER

People of MI v Kyle B. Richards

Docket No. 287931

LC No. 07-16379-FH

Kirsten Frank Kelly
Presiding Judge

Brian K. Zahra

Karen Fort Hood
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the Court VACATES the September 20, 2007 judgment of sentence and REMANDS this case for resentencing within the statutory sentencing guidelines range. In the event the sentencing court departs from such range, the court must state on the record substantial and compelling reasons to justify its departure. See *People v Babcock*, 469 Mich 247; 666 NW2d 231 (2003). On remand, the trial court shall also address defendant's current and future financial circumstances and foreseeable ability to reimburse the county for attorney fees before determining whether defendant should pay those fees. At the trial court's discretion, the decision may be made based on the record without the need for a formal evidentiary hearing. *People v Dunbar*, 264 Mich App 240, 252-256; 690 NW2d 476 (2004).

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 28 2008

Date

Sandra Schultz Mengel
Chief Clerk